

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45

COMMENTS OF THE  
NEW JERSEY BOARD OF PUBLIC UTILITIES

The New Jersey Board of Public Utilities (Board) submits the following comments in response to three Notice of Proposed Rulemakings (NPRMs) released by the Federal Communications Commission (FCC or Commission) on January 29, 2008. The Commission seeks comment on (1) the Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board) regarding high-cost universal service support; (2) the FCC's rules governing the amount of high-cost support provided to competitive eligible telecommunications carriers (ETCs); and (3) the merits of using reverse auctions to determine the amount of high-cost universal service support provided to ETCs.

In the first NPRM, the Commission seeks comment on ways to reform the high-cost universal service program. Specifically, the FCC seeks comment on the recommendation of the Joint Board regarding comprehensive reform of high-cost universal service support. The FCC also incorporated into this NPRM the two additional NPRMs that were released simultaneously: (1) the NPRM released by the Commission on January 29, 2008, which seeks comment on the Commission's rules governing the amount of high-cost universal service support provided to ETCs, including elimination of the "identical support rule," and (2) the NPRM released by the Commission on January 29, 2008, which seeks comment on whether and how to implement reverse auctions (a form of competitive bidding) as the disbursement mechanism for determining the amount of high-cost universal service support for ETCs serving rural, insular, and high-cost areas.

In the “identical support” NPRM the FCC tentatively concluded that it should eliminate the Commission’s current “identical support” rule – also known as the “equal support rule” – which provides competitive ETCs with the same per-line high-cost universal service support amounts that incumbent local exchange carriers (LECs) receive. The FCC seeks comment on this tentative conclusion. The FCC also seeks comment on its tentative conclusion to provide support to a competitive ETC based on its own costs of providing the supported services. The FCC then seeks comment on methodologies for determining a competitive ETC’s relevant costs for universal service support purposes, and other matters related to how the support should be calculated, including the appropriate reporting obligations, and whether the FCC should cap such support at the level of the incumbent LECs.

In the third NPRM, the FCC seeks comment on the merits of using reverse auctions (a form of competitive bidding) to determine the amount of high-cost universal service support provided to ETCs serving rural, insular, and high-cost areas. In a reverse auction, support generally would be determined by the lowest bid to serve the auctioned area. The FCC tentatively concluded that reverse auctions offer several potential advantages over current high-cost support distribution mechanisms, and that the Commission should develop an auction mechanism to determine high-cost universal service support. The FCC seeks comment on a number of specific issues regarding auctions and auction design that must be resolved in order for the Commission to implement an auction mechanism.

### **SUMMARY**

The Board is encouraged by certain findings in the NPRMs, and urges the FCC to adopt these modifications as soon as possible. Specifically, the Board concurs in the Commission’s tentative conclusions related to reverse auctions and the elimination of the identical support rule.

The Board encourages the Commission to carefully review the reverse auction which has the potential to significantly reduce the size of the Federal Universal Service Fund (Fund or USF), yet make a sufficient amount available to meet the Universal Service goals of the 1996 Telecommunications Act. The reverse auction process proposed by Verizon contains concepts that are supported by the Board. The Commission should adopt a proposal that

limits the number of supported networks in each area, and therefore minimizes the burden on customers providing the support, specifically consumers in New Jersey.

The funding of multiple ETCs is not efficient, and should be reduced and ultimately eliminated. There is no economic basis for funding more than one network when one network is not sustainable without support. The Board concurs with the tentative conclusion of the Commission to eliminate the identical support rule.

There are however, many very troubling aspects of the Joint Board Recommendation that the Board opposes and urges the Commission to reject. First and foremost is the proposal to establish three separate funds with distinct budgets and purposes. Adding broadband to the list of supported services at this time would exacerbate the current problems with the high cost portion of the Fund, particularly the size of the Fund. The Board recommends that the Commission investigate the current availability of broadband prior to determining if support for broadband is even necessary. Until more specific information is available, broadband services should not be added as an additional service supported from the Fund.

Adding a separate wireless fund is similarly troubling since the FCC and the Joint Board have already concluded that the main reason for the explosive, out-of-control growth in the fund is due to funding increases to competitive ETCs who are virtually all wireless carriers. As will be addressed below, the expansion of support and the proposed structure of three separate funds are contrary to many of the stated policies and goals articulated in the Recommended Decision.

### **COMMENT**

The Board welcomes the opportunity to express its views on this latest request for comments related to the Federal Universal Service Fund. In previous comments, this Board has continually and consistently implored the Commission to develop and implement significant structural change to the Fund. As previously stated, the current program has grown beyond the Fund's stated goal of ensuring the availability of affordable telephone service for all Americans who wish to have such service.

The high cost portion of the Fund has grown exponentially in the last 20 years from \$56 million in 1986 to more than \$4 billion in 2007. This growth must not continue. It is encouraging to see a proposal that the high cost portion of the Fund be capped. However, this is not sufficient. The Fund must be reduced. Otherwise, the consumers in net contribution states such as New Jersey, who already pay more than their fair share to support this laudable public policy goal, will be further burdened with no tangible benefit returning to them. New Jersey ratepayers have paid more than \$722 million in excess of what they have received from the Fund in just four years (2003 – 2006), *NEARLY THREE QUARTERS OF A BILLION DOLLARS!!*<sup>1</sup> Not only must the Fund not increase any more, it must be reduced. It is time to reduce the burden on urban states such as New Jersey and its ratepayers, many of whom struggle to pay for their own services, from having to subsidize telephone service (and as proposed in the Recommended Decision, broadband services) of rural consumers. The citizens of Newark, Camden and other New Jersey cities and communities should not have to help pay for service to a rancher in a rural state.

The Board supports the Commission's efforts in releasing these NPRMs and is encouraged to see that a short comment cycle has been established. The Board is very concerned, however, that the FCC has not yet acted on the Joint Board's previous recommendation that the Commission take immediate action to rein in the explosive and dramatic growth of high-cost support. Chairman Martin indicates that he has circulated an Order that adopts the recommendation of the Joint Board to place an interim cap on the amount of high-cost support available to competitive ETCs. This Board encourages the FCC to adopt that recommendation. Immediate action is necessary and appropriate. This Board continues to recommend that the emergency interim cap be extended to apply to all recipients of high cost support, including both competitive ETCs and incumbent LECs. While the Board does agree that the bulk of the growth in the high-cost fund is attributed to competitive ETCs, the Fund itself has grown well beyond its intended use and must be capped for all recipients until fundamental reform is completed. The high cost fund has grown over the years for many reasons including substantial increases to fund offsets to access charge reductions. Capping all high-cost distributions will help ensure that inappropriate use of universal service funding will not continue. Capping all recipients of high-cost support will treat all providers equally.

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<sup>1</sup> This calculation is derived from the Universal Service Monitoring Report (CC Docket No. 98-202), Table 1.12 on the FCC's web site as reported for the years 2003-2006. The data for 2003 and 2004 are contained in the 2005 report; 2005 data are in the 2006 report, and 2006 data are in the 2007 report. There may be slight discrepancies due to revisions made to the reports by the FCC after they were originally released.

In addition, the Commission must not approve any petitions for ETC status from any carrier, particularly wireless carriers, unless and until the cap is in place.

The Board concurs with the FCC's tentative conclusions related to reverse auctions and encourages the Commission to limit the number of "winners" who would receive support to no more than two (2) per study area, and then quickly transition to one recipient per study area. There are proposals for such an auction, such as one proposed by Verizon that could accomplish this goal. It is vital to the survival of the Fund that the number of supported networks be reduced. Limiting the number of supported networks and defining areas of support more clearly will assist in the distribution of the funds in a more appropriate manner that is to only those who actually need it. A reverse auction will also finally put an end to the inappropriate use of the Fund as a stimulus to competitive entry into areas where it is uneconomical for even one provider to operate. New Jersey should be relieved of the burden of funding competitive entry into rural states.

The Board recommends the use of reverse auctions to replace all of the various high cost support sub-funds with one payment, as well as eliminate a second major flaw in the current program, the identical support rule. There is currently no evidence that the costs of operation of all carriers are identical or even similar; in fact, the costs of the competitive ETCs (which consist mostly of wireless carriers) are likely less. By using a reverse auction, these disparities are removed since the carrier will bid based upon its own cost structure and ability to serve all customers. With appropriate safeguards, such as minimal service quality/penalties and carrier of last resort obligations, a reverse auction eliminates the very costly identical support rule. For these reasons, the Board concurs in the FCC's tentative conclusion to eliminate the identical support rule.

As a result of the policies and framework the FCC has adopted over the last several years, the Commission's rules actually subsidize multiple competitors to serve areas where costs may be prohibitively expensive for even one carrier to serve without a subsidy. The increase in the number of ETCs receiving high-cost support over the past several years is placing significant and increasing pressure on the stability of the Fund.

In a reverse auction, support generally would be determined by the lowest bid to serve the auctioned area. Auctions have potential merit in that they allow direct market signals to be

used as a replacement for cost estimates made from either historical cost accounting data or forward-looking cost models, as is done under the current high-cost support programs. In an auction, bids would reflect each bidding ETC's cost estimates for serving the relevant geographic area. If a sufficient number of bidders compete in the auction, the winning bid should reflect the minimum level of subsidy required to achieve the desired universal service goals. In contrast, a support mechanism based on either a carrier's embedded costs or on a forward-looking cost model provides no incentives for ETCs to provide supported services at the minimum possible cost. In addition, an auction would provide a means of eliminating the subsidization of multiple ETCs in a given region. The Board concurs with the FCC's tentative conclusion that reverse auctions offer several potential advantages over current high-cost support distribution mechanisms, and that the Commission should develop an auction mechanism to determine high-cost universal service support.

### **CONCERNS AND ISSUES**

There are significant issues and concerns with many portions of the Recommended Decision. The most important ones are as follows:

#### **THE ESTABLISHMENT OF THREE SEPARATE FUNDS**

The Recommended Decision would cap the entire high cost portion of the Fund at \$4.5 billion, and would have three funds under that cap, one for mobility, one for broadband, and one for providers-of-last resort.

- The broadband fund would be initially set at \$300 million per year, to be spent on deploying broadband in unserved areas, primarily for build out but can be used for operating funds if necessary. Funds would be allocated by states, which may have to provide matching funds to receive funding in their states above a baseline amount.
- The mobility fund, estimated at \$1 billion is for wireless deployment to unserved areas. Focus is initially on build out, but on-going operations can also be funded with the expectation that over a transition period the focus would shift to build out.

- Provider of last resort fund for wireline carriers with a focus on operational support. Begins by capping the incumbent portion of the current high cost fund and each of its existing mechanisms at 2007 level, for a total of about \$3 billion.
- There is an expectation that savings would come from a new method of providing support (e.g., eliminate identical support, use reverse auction) and that the savings would become available for use for expanding geographic coverage to unserved areas through the two new funds.

There are numerous concerns with this proposal, not the least of which is that the proposed cap at current levels does nothing to reduce the already overburdened ratepayers in donor states, such as New Jersey. The proposal creates new obligations to fund broadband and mobile services under the guise that the overall fund will not increase. We have little faith that these funds would not grow in the future.

The burden on New Jersey ratepayers, who have contributed over \$722 million in excess of what they have received from the Fund in just 4 years, *MUST BE REDUCED*. To simply cap the amount at this time will continue the excessive burden to our ratepayers. Chairman Lisa Polak Edgar is absolutely correct in her concerns that “expanding the scope of the fund to include broadband and mobility could inadvertently increase the overall fund size.” The Board concurs with her statement: “By capping the fund at current levels we may be continuing the excessive burden for telecommunications consumers going forward.”

As described above, the Recommended Decision does in fact make some very positive steps in suggesting the elimination of the identical support rule and the use of reverse auctions with the stated goals of eliminating “the use of federal universal service support to subsidize competition and build duplicate networks in high cost areas.” (§ 35) However, this goal and the additional desire to “avoid duplicate support” (§ 53), are undermined by the proposed “three fund” structure.

For example, the wireless industry has invested significant financial and marketing resources in promoting wireless broadband services which are in addition to its voice products. If the goal is to have one recipient for each fund, it is not possible to avoid duplicate support for a carrier that provides all three services over the same network.

The Board also concurs with some recent comments of Commissioner Tate with respect to the Joint Board's Recommendation:<sup>2</sup>

“Some of the recommendations raise questions that need to be addressed in more depth. I especially question whether it is prudent to create three new government-administered funds instead of reforming the existing ones, which are already growing at untenable levels. . . . We must not forget that it is the consumer who ultimately pays universal service contributions, every single month, and thus any increase in the size of the Universal Service Fund will raise the burden on consumers. . . . Moreover, does it make economic sense to provide ongoing support for three services that ultimately compete for the same customers?”

There are also unanswered questions regarding whether the use of federal universal service funds for broadband and mobility build-out to “unserved” areas is even necessary. First, according to a report released by the Commission on February 4, 2008:<sup>3</sup>

- Approximately 99.8 percent of the total U.S. population, has one or more different operators (cellular, PCS, and/or SMR) offering mobile telephone service in the census blocks in which they live.
- Approximately 99.3 percent of the U.S. population living in rural counties, or 60.6 million people, has one or more different operators offering mobile telephone service in the census blocks within the rural counties in which they live.
- More than 95 percent of the U.S. population lives in areas with at least three mobile telephone operators competing to offer service, and more than half of the population lives in areas with at least five competing operators.

If the Commission's own data is accurate, there appears to be no reason to separately fund an expansion of mobile services. These are the very providers who have caused the explosive growth in the high cost fund. Not only should there not be a new fund to provide monies for

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<sup>2</sup> Remarks of Commissioner Deborah Taylor Tate, Federalist Society, A New Role for an Aging Star: Universal Service in the Age of Competition and Technological Change, National Press Club, February 5, 2008, As Prepared for Delivery.

<sup>3</sup> In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, WT Docket No. 07-71, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Twelfth Report, Released February 4, 2008.



build-out, but ongoing operations support should be reduced and eliminated for the multitudes of competitive ETCs receiving support in the same geographic areas.<sup>4</sup>

Second, and potentially a more explosive concern, is broadband support through the Universal Service Fund. The Board has been a proponent of broadband deployment since 1992, when New Jersey Bell, now Verizon, was ordered to deploy broadband capability throughout its service territory by 2010. The Board contends that adding broadband to the list of federally supported services at this time would exacerbate the current problems with the high cost fund, particularly the size of the fund. As a donor state, we contend that the current level of support for those consumers receiving voice services is already too high, and the possibility of adding broadband without sufficient data on the impact of such added support, would worsen an already critical problem.

The Commission should investigate broadband availability before making any determination that support for broadband is even necessary from the Fund. The Commission's announcement on March 19<sup>th</sup> to expand and improve broadband data collection is a critical step in making such a determination. Chairman Martin correctly states that "dramatically improved data" will enable the FCC "to better identify and analyze the deployment of broadband throughout the nation". Chairman Martin goes on to state that "we conclude that we will obtain and map additional information about broadband service availability to better direct resources toward unserved and underserved areas. Armed with this additional broadband data, the Commission will be better able to assess and promote the deployment of broadband across the nation."<sup>5</sup> This is precisely what the FCC must do before any decision is made to provide additional broadband funding through the Federal USF.

The Board again encourages the Commission to consider other sources of funds for broadband deployment where it is necessary to do so. For example, increased use of federal loans from the Rural Utilities Service and/or tax incentives may be more appropriate sources of targeted support for broadband deployment. Commissioner Tate identifies various sources of broadband funding in her statement released on March 19<sup>th</sup> and they include the Department

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<sup>4</sup> Not only is it inappropriate to utilize federal universal service funds for a build-out, it is less appropriate for so called "underserved" areas which has not and likely cannot be defined with any degree of accuracy.

<sup>5</sup> Statement Of Chairman Kevin J. Martin, Re: Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, Released March 19, 2008.

of Agriculture, Department of Commerce, Department of Health and Human Services, Department of Education, and Appalachian Regional Commission as well as State grants.<sup>6</sup> The already bloated Federal USF should not duplicate funding for broadband that already exists.

The Board therefore recommends that the Commission continue the current definition of supported services but limit support to primary lines only. Funding broadband would only serve to replace the current inequitable redistribution of funds from urban to rural states for voice services, with a (potentially more expensive) fund to deploy broadband services in those same rural states. It is more appropriate to control the flow of funds through a more equitable distribution of support in a more targeted manner.

We are not alone with respect to these concerns. In Commissioner Tate's February 5<sup>th</sup> comments to the Federalist Society, her prepared remarks included a list of questions and concerns on this topic:

"I also believe that many questions remain with respect to two of the new funds: the Broadband Fund and the Mobility Fund. Should these new funds be more targeted, limited to unserved areas or used to enhance substandard service and/or to provide continued operating subsidies? What is the source of funding for the proposed \$300 million and when will it accrue? How should the proposed Broadband Fund relate to other current existing government programs such as those administered by the federal Department of Agriculture, the many broadband bills that are currently pending in Congress, and the hundreds of state and local projects that have already been undertaken with state and local taxpayer dollars? While we all support the expansion and deployment of broadband to every corner of the Nation, we must do so in a way that is coordinated, efficient, targeted and fiscally responsible. Again, as stewards of public funds, we must remain mindful that it is consumers who ultimately pay universal service contributions, and any increase in the fund size will increase the burden on consumers."

In addition, it would appear that the Commission has recently made available information on its web site and will be conducting workshops throughout 2008 in an attempt to make information available about the "resources, programs and policies of the FCC and USDA." The web site, according to the press release, contains information on "government funding for broadband

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<sup>6</sup> Statement of Commissioner Deborah Taylor Tate, Re: Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, Released March 19, 2008.

services”, “data on broadband deployment” and “helpful links to other government and private resources related to encouraging broadband opportunities in rural America.”<sup>7</sup> Making such information readily available is a far better course of action than creating a new source of rural funding paid for by urban consumers when such funding may be duplicative of resources and programs already available. The establishment of the proposed broadband fund is inconsistent with the recommendation that “broadband construction grants should not duplicate or preempt funding available from the Rural Utility Service” (§54).

### **MATCHING FUNDS**

The Recommended Decision suggests that the states would administer the new mobility and broadband funds (§14, 17). While we have expressed our strong opposition to the proposed new funds, the Joint Board does raise an issue that is of great interest. At paragraphs 50 and 51, the Recommended Decision states the following:

50. The Joint Board recommends that the Commission adopt policies that encourage states to provide matching funds for Broadband Fund and Mobility Fund support. We recommend an approach in which all states are entitled to a base funding level. States could receive supplemental funding when they generate matching funds. For example, a state that does not provide a minimum match, perhaps 20 percent, for USF broadband support would still receive its base level of universal service support for broadband but no additional, supplemental funding from the federal fund.

51. This system will provide an incentive for states to be actively involved in monitoring the use of Broadband Fund and Mobility Fund dollars. It also recognizes the states’ interest in pursuing economic development opportunities through broadband and wireless technology enhancements, and it encourages these states to provide additional funding for these projects. Because of the base support element, a state that is not in a position to provide matching funds would not be penalized by disqualification from receiving any support.

The Joint Board also accurately suggests that there are other areas in government where matching structures are in place, including the current LifeLine/Link-Up program. It is this Board’s contention that any restructure of the federal high-cost fund must include a matching funds requirement for a state to be eligible for high-cost support.

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<sup>7</sup> Press Release, FCC and USDA Launch Web Site Focused on Rural Broadband Opportunities, Federal Communications Commission, Released February 1, 2008.

As has been recognized by the Joint Board, the FCC, numerous state commissions and countless others, the out of control growth in the high cost fund is due to increased support to competitive ETCs. These NPRMs recognize the need to eliminate support to duplicate networks, and this Board supports the effort to do so. The reason there is so much competitive ETC support is in large part due to the number of carriers that have been granted ETC status in the past several years. This activity has been opposed by this Board for many years, since we view many of these approvals as an inappropriate way to stimulate competition where it is not economic to do so otherwise.

By requiring states to establish a matching funding mechanism, we agree that states would have a greater incentive in monitoring high cost funds. Commissioner Landis recognized the need for matching funds when he said, "It is time for the states to have a stake not only in policy decisions and in the administration of the high cost universal service program, but also step up to at least a modest role in its funding." Commissioner Landis also stated, "I strongly support the recommendation that state matching funds should be a requirement for receipt of maximum funding under the proposed Broadband fund, and further believe comment should be sought on whether it is appropriate to structure all three funds in that manner, perhaps consistent with ability (but independent of political will) to pay for those states seeking to maximize the funds allocated to service areas within their boundaries." While we do not support the proposal for creation of three funds, we strongly support the concept of a state matching fund requirement for all federal high cost support.

Finally, Commissioner Landis, as part of his recommendation for matching funds, said, "as our former colleague Billy Jack Gregg has pointed out, several states which are among the largest net recipients (disbursements less collections) of funds under the federal universal service program do not have a state universal service program or any other program targeted to address issues such as those addressed in this Recommended Decision." Our analysis indicates (based upon information we have reviewed from NARUC, NASUCA and the FCC) that 4 of the 9 states who were the highest net support recipients in 2006, apparently do not have intrastate universal service funds. Those 4 states received a net \$497 million from the federal universal service fund in 2006. In addition, 3 of the top 10 state recipients of high cost support and Puerto Rico, apparently, do not have intrastate universal service funds. Those 3 states (and Puerto Rico) alone received \$646 million in high cost support in 2006.

## ALLOCATION OF FUNDS

Commissioner Baum is correct in his assessment that the Recommended Decision:

“failed to address some basic inequities in how High Cost support is distributed among non-rural ILECs and among the states. Inequitable distribution of support to states has been compounded by the equal support rule for competitive ETCs. The exponential growth in the competitive ETC portion of the fund over the last 6 years has gone to states where per line reimbursements to incumbent LECs are the highest and where the politics are the most favorable. As a result, by the end of 2006, the top 10 states, exclusive of the insular jurisdictions of Alaska and Puerto Rico, received almost 45% or over \$450 million, of the \$1 billion competitive ETC support. Other similarly situated rural states received less than 10% of that amount. It is clear that the current distribution system is broken. The current FCC rules have resulted in a vast misallocation of public dollars to the benefit of only a small portion of rural consumers, and to the detriment of the rest.”

Before the FCC considers a new high-cost structure, it must revise the current fatally flawed allocation of funds to make it more equitable to states like New Jersey. The issue of allocation of funds to the states is not addressed but the FCC is seeking comment. One thing is certain; another “cost-model” approach will not work. If the Commission employs a reverse auction and does not expand support to these proposed two new funds, and requires some level of state matching funds, there is no need for any further cost models, a topic which will continue to be debated long after the collapse of the current high cost fund.

## TRANSITION PERIOD

This issue of an appropriate transition has not been addressed. While this Board opposes the proposed new three fund structure, the current structure must be replaced as described above, i.e., use of reverse auctions to ultimately select a single provider to receive support. Any transition period should be no more than 5 years, and should not necessarily incorporate the politically safe “Hold Harmless” rule within its procedures. The loser of an auction, who currently receives support, should have that support phased down in the same percentage (20% per year over 5 years) as the winner receives phased in new support. Under no circumstances should more monies be paid from the Fund during the transition than is currently provided in total.

## LIFELINE / LINK UP

Finally, under no circumstances should current Lifeline/Link-Up recipients be affected in any way during the transition to a restructured high cost funding mechanism. These consumers are the most vulnerable and the most deserving of support from a federal fund that was established to ensure that all consumers that wish to have access to a telephone may do so. It is incomprehensible to think that these truly deserving consumers would or could be adversely affected by such a transition.

## CONCLUSION

The time has come to enact significant structural changes to the high cost fund so that the payments to service providers receiving support from this program are brought under control. Utilizing the high cost fund to support multiple service providers is not efficient and has resulted in excessive growth in required contributions. There is no economic basis for funding more than one network when one network is not sustainable without support. Distributions should be limited to only those consumers and service providers who are truly in need and only to the extent necessary to ensure affordable access. The Board concurs with the recommendation that the Commission eliminate the identical support rule. The Board further supports the implementation of reverse auctions which would eliminate the issue of how to fund multiple carriers in high-cost areas. A reverse auction could begin with two (2) carriers receiving support as a rapid transition to ultimately one recipient per study area.

As a donor state, the prevailing interest of New Jersey is to ensure that the calculations utilized to ascertain contribution and distribution amounts are open, fair and equitable, and provide support for only those consumers and service providers who are truly in need.

Consistent with our previous remarks, the high cost fund cannot and should not be increased under any circumstances, and new techniques that more precisely target distributions should be considered but only if these techniques reduce the size of the fund.

The recommendation for three separate funds with three distinct budgets and purposes is not consistent with the goals articulated by the Joint Board in its Recommended Decision. It will not eliminate duplicate support. Even though a cap at the current level is proposed, there is no

guarantee that the fund won't increase and therefore the explosive growth it is intended to forestall may or may not occur. The cap by its very nature is based on excessive support payments and is therefore, by definition, too high. For these and the many other reasons contained herein, the Board urges the FCC to reject the proposal for the new Mobility and Broadband Funds.

Finally, this Board concurs with the statement released by Commissioner McDowell:

"I have consistently stated that, while the Universal Service system has been instrumental in keeping Americans connected and improving their quality of life, this system is in dire need of comprehensive reform. I have maintained that we must follow five principles when considering reforms to the Universal Service Fund. We must: (1) slow the growth of the Fund; (2) permanently broaden the base of contributors; (3) reduce the contribution burden for all, if possible; (4) ensure competitive neutrality; and (5) eliminate waste, fraud and abuse."

DATED: April 16, 2008

BOARD OF PUBLIC UTILITIES  
BY:

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